

CIVIL SERVICE COMMISSION MINUTES

APRIL 1, 1998

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gordon Austin, President
Roy Dixon, Vice-President
Mary Gwen Brummitt
Gloria Valencia-Cothran

Absent were:

Gordon Austin

Comprising a quorum of the Commission

Larry Cook, Executive Officer
Ralph Shadwell, Deputy County Counsel
Joy Kutzke, Reporting

Commissioner Paul Thomas being absent

CIVIL SERVICE COMMISSION MINUTES
April 1, 1998

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
9,13,14,16		15	2,7,8

COMMENTS Motion by Valencia-Cothran to approve all items not held for discussion; seconded by Dixon. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda.

a. Commissioner Brummitt: Ali Hebshi, S.E.I.U. Local 2028, on behalf of **Jaime Aranda** appealing an Order of Termination from the Assessor\Recorder\County Clerk.

REGULAR AGENDA

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of March 4, 1998.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Austin as hearing officer in the appeal of **Olga Rivera** from an Order of Suspension from the Health and Human Services Agency.

Withdrawn.

3. Commissioner Dixon as hearing officer in the appeal of **Carlos Lopez** from an Order of Termination from the Assessor/Recorder/County Clerk.

Confirmed.

4. Commissioner Valencia-Cothran as hearing officer in the appeal of **Richard Eaton** from an Order of Suspension from the Sheriff.

Confirmed.

5. Commissioner Brummitt as hearing officer in the appeal of **Sylvia Peralta** from an Order of Reduction in Compensation and Duties from the South Bay Municipal Court.

Confirmed.

6. Commissioner Austin as hearing officer in the appeal of **Timothy Zinglar** from an Order of Immediate Suspension from the Health and Human Services Agency.

Confirmed.

WITHDRAWALS

7. William Fitzgerald, representative, on behalf of **Stephen Maier** appealing Orders of Suspension and Pay Step Reduction from the Sheriff. Commissioner Austin was assigned as hearing officer.

Withdrawn.

8. **Minnie Martin** appealing an Order of Demotion from the former Department of Social Services currently named Health and Human Services Agency. Commissioner Dixon was assigned as hearing officer.

Withdrawn.

DISCIPLINARY FINDINGS

9. Commissioner Brummitt: Ali Hebshi, S.E.I.U., Local 2028, on behalf of **Jaime Aranda** appealing an Order of Termination from the Assessor\Recorder\County Clerk.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I – discourteous treatment of the public or other employees (made intimidating and threatening remarks to coworkers and supervisor; Cause II – insubordination (bringing unwelcomed behavior into work area); Cause III – conduct unbecoming an officer or employee of the County; Cause IV – improper use of sick leave; and Cause V – failure of good behavior. This hearing officer concludes that as the result of oral and written testimony provided at the hearing Employee is unable to maintain appropriate conduct in

the workplace environment, and has threatened and intimidated coworkers and supervisors. Employee was previously disciplined for the sexual harassment of coworkers and evidence at the hearing demonstrated that since such time he did not violate any rules or guidelines concerning sexual harassment. Employee is found to not have "abused" sick leave; however, has engaged in excessive use of sick leave over a ten-year time period. The charges described in Causes I, II, III and V relating to violations of the violence and threats in the workplace were proven to be true. The charges in Causes I, II, III and V to the extent that they related to Employee's conduct constituting sexual harassment were incorrectly part of the charges. The charges in Cause IV relating to improper use of sick leave were also proven to be true. Employee is guilty of Causes I, II, III, IV and V. Therefore, it is recommended that the Order of Termination and Charges be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Brummitt to approve Findings and Recommendations; seconded by Dixon. Carried.

SELECTION PROCESS FINDINGS/COMPLAINTS

Findings

10. **Steven Mendenhall** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff for failure to meet the employment standards.

11. **Theresa A. Casterjon** appeal of removal of her name by DHR from the employment list for Corrections Deputy Sheriff for failure to meet the employment standards.

12. **Sherman R. Sadsarin** appeal of removal of his name by DHR from the employment list for Corrections Deputy Probation Officer for failure to meet the employment standards.

RECOMMENDATION: Ratify Item Nos. 10 through 12. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 10 through 12 ratified.

Complaints

13. **Douglas D. Ryder** appealing denial by DHR to compete in the selection process for Deputy Probation Officer.

RECOMMENDATION: Deny request.

Mr. Ryder addressed the Commission supporting his argument that he has the essential experience and credentials necessary to allow him to compete in the Deputy Probation Officer selection process. Blair

Provo spoke on behalf of DHR stating that the requirements as they relate to case management experience are very narrow and specific and DHR, with the input of subject matter experts, does not believe Mr. Ryder meets the requisite minimum requirements to compete in the selection process for a Deputy Probation Officer. After extensive discussion, the Commission determined that there was sufficient information provided by Mr. Ryder to conduct a selection process hearing.

Motion by Gloria Valencia-Cothran to grant a Rule X hearing; seconded by Dixon. Carried. Commissioner Brummitt assigned as hearing officer.

14. Deborah Olberding, S.E.I.U. Local 2028, on behalf of **Adell Burge** appealing DHR'S denial to allow her to compete in selection process for Criminal Secretary II and requesting the Commission to issue a stay order. (See No. 15 below.)

RECOMMENDATION: Hold Rule X request in abeyance pending outcome of EOMO investigation. No need to issue stay order – department has agreed to postpone hiring process until issues are resolved.

Ms. Burge addressed the Commission regarding her request that a stay order be issued to the Public Defender's Department relating to appointments made in that department from the Criminal Secretary II list pending resolution of her issues before the Commission and the resultant harm to her should vacancies be filled. Mr. Cook stated that the department has voluntarily agreed to delay appointments from the Criminal Secretary II list until issues brought forth by Ms. Burge are resolved.

Motion by Brummitt to approve staff recommendation; seconded by Dixon. Carried.

DISCRIMINATION

Complaints

15. **Adell Burge** alleging union affiliation discrimination by the Department of the Public Defender. (See No. 14 above.)

RECOMMENDATION: Assign to a Commissioner and forward to EOMO for investigation and report back to the Commission.

Staff recommendation approved – Commissioner Austin assigned.

PROCEDURAL INVESTIGATIONS

Findings

16. Commissioner Brummitt: Investigation into the personnel practices of two units within the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

This investigation arose out of several matters brought before the Commission by Helen Antoniak relating to her own employment such as a Rule VII appeal of a disciplinary suspension, a Rule V performance appraisal matter, and a Rule X appeal regarding her non-selection for a promotion to Protective Service Worker II. In each of these matters, the Civil Service Commission found some merit in the positions taken by Employee. Because of the recurring nature of these matters, the Commission determined that it should investigate whether there existed some underlying personnel practices in violation of the merit basis of the personnel system in the current and previous units in which Employee is/was employed. Ms. Antoniak identified several personnel practices that she contended were allegedly flawed. Each item was addressed during the course of the investigation and is addressed in a comprehensive report on file in the Commission office. The following recommendations are made as the result the investigation:

RECOMMENDATIONS

A. That the Civil Service Commission determine that managers of Continuing Services and ICPC of Children Services Bureau in the Health and Human Services Agency are not engaging in personnel practices that violate the merit basis of the personnel system.

B. That the Commission determine that the Civil Service Rule V, VII, and X matters previously brought before the Commission by Employee are limited to the specific facts brought forward therein, and are not indicative of endemic or systemic practices, procedures, or policies of the Health and Human Services Agency which violate the merit basis of the personnel system.

C. That a recommendation be given to the Director of Community Initiatives to review the Agency's policy and practice regarding disclosing information at the conclusion of an Internal Affairs investigation, and that he consider providing affected employees with summary reports as long as confidentiality is not compromised.

D. That the Civil Service Commission review and file this report.

**Motion by Brummitt to approve Findings and Recommendations;
seconded by Dixon. Carried.**

COMPULSORY LEAVES

17. James Gattey, Esq., on behalf of **Stephen Maier**, appealing an Order of Compulsory Leave by the Sheriff.

RECOMMENDATION: Assign to a hearing officer.

Staff recommendation approved — Commissioner Dixon assigned as hearing officer.

OTHER MATTERS

18. Ratification of Jonathan Greenberger, M.D.; Martin M. Nielsen, M.D.; H. Arthur Silverman, M.D.; and Jonathan A. Schleimer, M.D., as additional names to the list of medical and psychological providers to be used for fitness for duty evaluations at the request of the Department of Human Resources.

RECOMMENDATION: Ratify providers.

Ratified.

Extension of Temporary Appointments

19. Housing and Community Development

A. 1 Housing Specialist I (Elbert C. Cruzado)

B. 1 Housing Aide (Craig F. Anderson)

RECOMMENDATION: Ratify.

Ratified.

20. Public Input.

ADJOURNMENT: 3:40 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE APRIL 15, 1998.